



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

*File*

JUL 12 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Steven Pitsch, President  
Pitsch Companies  
675 Richmond NW  
Grand Rapids, Michigan 49504

Dear Mr. Pitsch:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket number CAA-05-2013-0031 with Pitsch Sanitary Landfill, Inc. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUL 12 2013.

Pursuant to paragraph 87 of the CAFO, Pitsch must pay the civil penalty within 30 days of the date the CAFO was filed. Your electronic funds transfer must display the case name Pitsch Sanitary Landfill, Inc. and the docket number CAA-05-2013-0031.

Please direct any questions regarding this case to Erik Olson, Associate Regional Counsel, 312.886.6829.

Sincerely,

Eileen L. Furey  
Acting Chief  
Air Enforcement and Compliance Assurance Branch

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Erik Olson/C-14J  
Tom Hess, MDEQ

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2013-0031</b>
	)	
<b>Pitsch Sanitary Landfill, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Belding, Michigan</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

RECEIVED  
REGIONAL OFFICE  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
2013 JUN 12 11:11 AM

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Pitsch Sanitary Landfill, Inc., a corporation doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations and alleged violations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. Under Section 111 of the CAA, EPA promulgated the Standards of Performance for New Stationary Sources (NSPS) General Provisions at 40 C.F.R. §§ 60.1 through 60.19.

10. The NSPS General Provisions apply to the owner or operator of any stationary source that contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard applicable to that facility.

11. The NSPS General Provisions, at 40 C.F.R. § 60.8, set forth general requirements for performance tests.

12. The NSPS General Provisions, at 40 C.F.R. § 60.18, set forth general control device and work practice requirements, including among other things, at 40 C.F.R. § 60.18(b)-(f), requirements for flares.

13. Under Section 111 of the CAA, EPA promulgated the NSPS for Municipal Solid Waste Landfills (MSWLs) at 40 C.F.R. §§ 60.750 through 60.759 (Subpart WWW).

14. The NSPS for MSWLs, at 40 C.F.R. § 60.750, specifies that Subpart WWW applies to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991.

15. The NSPS for MSWLs, at 40 C.F.R. § 60.755, sets forth compliance provisions for municipal solid waste landfills, including among other things, at 40 C.F.R. § 60.755(c),

procedures for compliance with the surface methane operational standard and, at 40 C.F.R. § 60.755(e), start-up, shutdown and malfunction (SSM) provisions.

16. The NSPS for MSWLs, at 40 C.F.R. § 60.756, sets forth requirements for monitoring of operations at municipal solid waste landfills.

17. The NSPS for MSWLs, at 40 C.F.R. § 60.757, sets forth reporting requirements for municipal solid waste landfills including among other things, at 40 C.F.R. § 60.757(a) and (b), requirements for initial and amended design capacity reports and non-methane organic compound (NMOC) reports.

18. Under Section 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) General Provisions at 40 C.F.R. §§ 63.1 through 63.16.

19. The NESHAP General Provisions apply to, among other things, the owner or operator of any stationary source that is subject to any standard, limitation, prohibition or other federally enforceable requirement established pursuant to 40 C.F.R. Part 63.

20. The NESHAP General Provisions, at 40 C.F.R. § 63.10, set forth general requirements for recordkeeping and reporting, including, but not limited to, SSM reports.

21. Under Section 112 of the CAA, EPA promulgated the NESHAP for MSWLs at 40 C.F.R. §§ 63.1930 through 63.1990 (Subpart AAAA).

22. The NESHAP for MSWLs applies to owners and operators of any MSWL that, among other things, has accepted waste since November 8, 1987.

23. Under Section 502 of the CAA, EPA established an operating permit program for certain sources with implementing regulations at 40 C.F.R. Part 70. The regulations at 40 C.F.R.

Part 70 refer to sources subject to permitting programs implemented pursuant to 40 C.F.R.

Part 70 as "Part 70 Sources."

24. Section 502(a) of the CAA provides that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

25. 40 C.F.R. § 70.7(b) provides that no Part 70 source may operate after the time it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a Part 70 program.

26. EPA granted final interim approval to the Michigan Title V operating permit program on January 10, 1997. 62 Fed. Reg. 1387. The program became effective on February 10, 1997. The Michigan Title V program was granted final full approval by EPA, effective November 30, 2001. 66 Fed. Reg. 62949. 40 C.F.R. Part 70, Appendix A. The State of Michigan calls its Title V permits "renewable operating permits."

27. Michigan's rule for renewable operating permit applicability, found at Michigan R 336.1211(1)(d), provides that any MSWL that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters is subject to the requirements of Michigan R 336.1210 to obtain and only operate in compliance with a renewable operating permit.

28. Section 113(d)(1)(B) of the CAA authorizes the Administrator of EPA (the Administrator) to issue an order assessing a civil penalty whenever, among other things, the Administrator finds that any person has violated or is violating a requirement or prohibition of the NSPS, NESHAP, or Title 5, or any rule or permit promulgated, issued or approved under the Act.

29. The Administrator may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, through January 12, 2009, and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009, pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

30. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

31. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Factual Allegations and Alleged Violations**

32. Respondent owns and operates a municipal solid waste landfill at 7905 Johnson Road, Belding, Michigan (Belding landfill), which accepts waste including municipal and household solid waste.

33. Respondent is an "owner or operator" as defined at 40 C.F.R. §§ 60.2 and 63.2.

34. Respondent's Belding landfill is a "municipal solid waste landfill" as defined at 40 C.F.R. §§ 60.751 and 63.1990.

35. At all times relevant to this CAFO, Respondent's Belding landfill has emitted or had the potential to emit municipal solid waste landfill emissions and NMOC.

36. Municipal solid waste landfill emissions and NMOC are air pollutants regulated by 40 C.F.R. Part 60, Subpart WWW and by 40 C.F.R. Part 63, Subpart AAAAA.

37. Respondent's Belding landfill is an "affected facility," as defined at 40 C.F.R. § 60.2.

38. Respondent's Belding landfill is a "stationary source," as defined at 40 C.F.R. §§ 60.2 and 63.2.

39. Respondent received a construction permit from the Michigan Department of Environmental Quality (MDEQ) in August 1999 for construction of new cells which increased Respondent's Belding landfill's design capacity to greater than 3.2 million cubic meters.

40. Respondent began construction of Cell V on September 15, 1999.

41. At all times relevant to this CAFO, Respondent's Belding landfill has been subject to the NSPS General Provisions.

42. At all times relevant to this CAFO, Respondent's Belding landfill has been subject to the NSPS for MSWL at 40 C.F.R. Part 60, Subpart WWW.

43. Respondent began accepting waste at its Belding landfill in 1975.

44. Respondent's Belding landfill is an "affected source," as defined at 40 C.F.R. §§ 63.2 and 63.1940.

45. Respondent's Belding landfill is an "area source," as defined at 40 C.F.R. § 63.2.

46. At all times relevant to this CAFO, Respondent's Belding landfill has been subject to the NESHAP for MSWL at 40 C.F.R. Part 63, Subpart AAAAA.

47. At all times relevant to this CAFO, Respondent's Belding landfill has been subject to the NESHAP General Provisions at 40 C.F.R. Part 63, Subpart A.

48. Respondent's Belding landfill became subject to 40 C.F.R. Part 70 ninety days after commencing construction of Cell V on December 14, 1999.

49. Respondent submitted an application for a Title V permit for its Belding landfill to the MDEQ in September 2007.

50. MDEQ issued a final Title V permit to Respondent for the Belding landfill, effective October 2, 2009, ROP No. MI-ROP-N5619-2009 (ROP).

51. The ROP includes, among other things, terms and conditions that are specific to individual emissions units at the Belding landfill. The ROP identifies these emission units as EULANDFILL>50, EUPASSIVECOLL, EUACTIVECOLL, and EUOPENFLARE.

52. Respondent owns and operates a passive gas collection system at its Belding landfill.

53. Respondent owns and operates flares as part of its passive gas collection system.

54. Respondent owns and operates an active gas collection system at its Belding landfill.

55. On July 11, 2011, EPA issued a Finding of Violation to Respondent for violations of the NSPS General Provisions at 40 C.F.R. Part 60, Subpart A; the NSPS for MSWLs at 40 C.F.R. Part 60 Subpart WWW; the NESHAP for MSWL at 40 C.F.R. Part 63, Subpart AAAA; the Title V permitting provisions of the CAA at 42 U.S.C. §§ 7661-7661f, and the regulations implementing Title V at 40 C.F.R. Part 70.

56. ROP EULANDFILL>50 Condition V.4.c. requires the permittee to keep written records of the meteorological conditions on the day of surface methane monitoring, including wind speed, wind direction, temperature and cloud cover.



57. ROP EUPASSIVECOLL Condition VI.6 requires that on a monthly basis, the permittee monitor and record the static pressure and methane content of the gas for each gas vent under ROP EUPASSIVECOLL in accordance with 40 C.F.R. § 756(e).

58. Respondent conducts monthly monitoring events at the landfill, which includes surface methane monitoring and monitoring passive well pressure.

59. Respondent did not record meteorological data during surface methane monitoring from January 12, 2009 to November 15, 2010.

60. Respondent did not record pressures at passive wells from September 9, 2009 to November 15, 2010.

61. Respondent began recording meteorological data during surface methane monitoring on or about November 15, 2010.

62. Respondent submitted updated passive well pressure monitoring data to MDEQ on November 15, 2010.

63. Respondent's failure to record meteorological conditions during surface methane monitoring from January 12, 2009 to November 15, 2010, violated 40 C.F.R. § 70.7(b) and ROP EULANDFILL>50 Condition V.4.c.

64. Respondent's failure to record pressures at passive wells from September 9, 2009 through November 15, 2010, violated 40 C.F.R. § 70.7(b) and ROP EUPASSIVECOLL Condition VI.6.

65. 40 C.F.R. § 60.757(a)(3) requires that each owner or operator subject to the NSPS for MSWLs must submit an amended design capacity report to the Administrator providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in

the maximum design capacity of the landfill to or above 2.5 million megagrams and 2.5 million cubic meters.

66. 40 C.F.R. § 60.757(b) requires each owner or operator subject to the NSPS for MSWLs to submit an initial NMOC emission rate report to the Administrator within 90 days after the date of commenced construction, modification or reconstruction for landfills that commence construction, modification or reconstruction on or after March 1, 1996, and annually thereafter.

67. 40 C.F.R. § 63.10(d)(5)(i) requires the owner or operator of an affected source to deliver or postmark SSM reports by the 30<sup>th</sup> day following the end of each calendar half (or other calendar reporting period, as appropriate).

68. ROP EULANDFILL>50 Condition VII.6, EUPASSIVECOLL Condition VII.5, EUACTIVECOLL Condition VII.5, and EUOPENFLARE Condition VII.6 require that the permittee submit the SSM report to the appropriate AQD District office, delivered or postmarked by March 15 for the reporting period July 1 to December 31, and September 15 for the reporting period January 1 to June 30.

69. EUPASSIVECOLL Condition VII.4, EUACTIVECOLL Condition VII.4, and EUOPENFLARE Condition VII.4 require that the permittee submit to the appropriate AQD District Office semiannual reports for the gas collection system. Reports must be postmarked or received by March 15 for the reporting period July 1 to December 31, and September 15 for the reporting period January 1 to June 30.

70. Respondent increased the maximum design capacity of the Belding landfill to above 2.5 million megagrams and 2.5 million cubic meters in or around September 15, 1999.

71. Respondent commenced construction, reconstruction or modification of its Belding landfill on September 15, 1999.

72. Respondent was required to submit an Amended Design Capacity Report to MDEQ by December 15, 1999.

73. Respondent was required to submit an initial NMOC Emission Rate Report to MDEQ by December 15, 1999.

74. Respondent submitted the Amended Design Capacity Report and the initial NMOC Emission Rate Report to MDEQ on September 28, 2007.

75. Respondent was required to submit semiannual SSM reports to MDEQ that were due on March 15, 2010, and September 15, 2010.

76. Respondent was required to submit semiannual gas collections reports to MDEQ that were due on March 15, 2010, and September 15, 2010.

77. Respondent submitted the March 2010 and September 2010 SSM reports and gas collection system reports to MDEQ on November 10, 2010.

78. Respondent's failure to timely submit an Amended Design Capacity Report violated 40 C.F.R. § 60.757(a)(3).

79. Respondent's failure to timely submit the initial NMOC Emission Rate Report violated 40 C.F.R. § 60.757(b).

80. Respondent's failure to timely submit SSM reports violated 40 C.F.R. § 63.10(d)(5)(i) and 40 C.F.R. § 70.7(b) and ROP EULANDFILL>50 Condition VII.6, ROP EUPASSIVECOLL Condition VII.5, ROP EUACTIVECOLL VII.5, and ROP EUOPENFLARE Condition VII.6.

81. Respondent's failure to timely submit gas collection system reports violated 40 C.F.R. § 70.7(b) and ROP EUPASSIVECOLL Condition VII.4, ROP EUACTIVECOLL VII.4, and ROP EUOPENFLARE Condition VII.4.

82. 40 C.F.R. § 60.8(a) requires that, no later than 180 days after initial startup of a facility, the owner or operator of the facility conduct performance test(s) and provide the Administrator with written results of such performance tests.

83. ROP EUOPENFLARE Condition V.1 requires that, no later than 180 days after the initial start-up of the approved control system, the permittee conduct an initial performance test of each open flare, as specified in 40 C.F.R. § 60.18.

84. Respondent started up its control system on or about September 2009.

85. Respondent conducted performance testing of its control system on May 25 and 26, 2010.

86. Respondent's failure to timely conduct performance testing of its control system violated 40 C.F.R. § 60.8(a), 40 C.F.R. § 70.7(b) and ROP EUOPENFLARE Condition V.1.

#### **Civil Penalty**

87. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and Respondent's cooperation and agreement to perform a supplemental environmental project, Complainant has determined that an appropriate civil penalty to settle this action is \$17,500. Within 30 days after the effective date of this CAFO, Respondent must pay a \$17,500 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," by U.S. Mail to:

88.

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

The check must note Respondent's name and docket number of this CAFO.

89. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Erik Olson, Associate Regional Counsel (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

90. This civil penalty is not deductible for federal tax purposes.

91. If Respondent does not pay timely the civil penalty or any stipulated penalties due under paragraph 103, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

92. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **Supplemental Environment Project**

93. Respondent must complete a supplemental environmental project (SEP) designed to protect public health and the environment by eliminating the diesel emissions from trucking landfill leachate to the wastewater treatment facility.

94. At its Belding landfill, Respondent must complete the SEP as follows. By September 30, 2013, Respondent shall submit construction approval request to the City of Belding, Michigan, for construction of the sewer line from the facility to Belding's wastewater treatment plant. Within 30 days of any approval of the project from the City of Belding, with or without conditions, but no later than February 28, 2014, Respondent shall submit to EPA a final project plan for completion of the project, identifying final cost estimates and a construction schedule. Such cost estimates shall include any costs not previously identified but related to conditions required by the City of Belding for project completion. The construction schedule shall provide for completion of the project by September 30, 2014. Alternatively, should the City of Belding not approve the project, or if the conditions of the approval are such that

Respondent chooses not to complete the project, Respondent shall submit to EPA a notice that it will not complete the project, but rather pay stipulated penalties as described in paragraph 103(a).

95. Respondent must spend at least \$400,000 to construct and maintain the project for a period of three years.

96. While the parties expect that the Respondent will use the sewer line for the life of the Belding landfill, under the terms of this CAFO Respondent must continuously use or operate the sewer line for 3 years following its installation.

97. Respondent certifies as follows:

I certify that Pitsch Sanitary Landfill, Inc. is not required to perform or develop the SEP by any law, regulation, order, or agreement or as injunctive relief as of the date that I am signing this CAFO. I further certify that Pitsch Sanitary Landfill, Inc. has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

I certify that Pitsch Sanitary Landfill, Inc. is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

98. EPA may inspect the Belding landfill at any time to monitor Respondent's compliance with this CAFO's SEP requirements.

99. Respondent must submit a SEP completion report to EPA by October 31, 2014. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized cost of goods and services used to complete the SEP documented by copies of invoices, purchase orders or cancelled checks that specifically identify and itemize the individual cost of the goods and services;
- d. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- e. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

100. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch at the address provided in paragraph 88, above.

101. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

102. Following receipt of the SEP completion report described in paragraph 98, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 103.

103. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from



EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 103, below.

104. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete the SEP satisfactorily according to the requirements of this CAFO, including the schedule in paragraph 93, Respondent must pay a penalty of \$52,500.
- b. If Respondent did not complete the SEP satisfactorily, but EPA determines that Respondent made good faith and timely efforts to complete the SEP and certified, with supporting documents, that it spent at least 90 percent of the amount set forth in paragraph 94, Respondent will not be liable for any stipulated penalty under subparagraph a, above.
- c. If Respondent completed the SEP satisfactorily, but spent less than 90 percent of the amount set forth in paragraph 94, Respondent must pay a penalty of \$10,000.
- d. If Respondent did not submit timely the SEP completion report or any other report or plan required by paragraph 93, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$250	1 <sup>st</sup> through 14 <sup>th</sup> day
\$500	15 <sup>th</sup> through 30 <sup>th</sup> day
\$1000	31 <sup>st</sup> day and beyond

105. EPA's determinations of whether Respondent completed the SEP satisfactorily and whether Respondent made good faith and timely efforts to complete the SEP will bind Respondent.

106. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in paragraph 87, above, and will pay interest and nonpayment penalties on any overdue amounts.

107. Any public statement that Respondent makes referring to the SEP must include the following language: "Pitsch Sanitary Landfill, Inc. undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Pitsch Sanitary Landfill, Inc. for violations of the Clean Air Act."

108. If an event occurs which causes or may cause a delay in completing the SEP as required by this CAFO:

- a. Respondent must notify EPA in writing within 10 days after learning of an event which caused or may cause a delay in completing the SEP. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past and proposed actions to prevent or minimize the delay and a schedule to carry out those actions. Respondent must take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the SEP.
- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the SEP, EPA will notify Respondent in writing of its decision and any delays in completing the SEP will not be excused.
- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the SEP. Increased costs for completing the SEP will not be a basis for an extension of time under subparagraph b, above. Delay in achieving an interim step will not necessarily justify or excuse delay in achieving subsequent steps.

109. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

**General Provisions**

109. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

110. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

111. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 109, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

112. Respondent certifies that it is complying fully with the NSPS, the NESHAP, and ~~its~~ <sup>its</sup> ROP.

113. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

114. The terms of this CAFO bind Respondent, its successors and assigns.

115. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

116. Each party agrees to bear its own costs and attorney's fees in this action.

117. This CAFO constitutes the entire agreement between the parties.

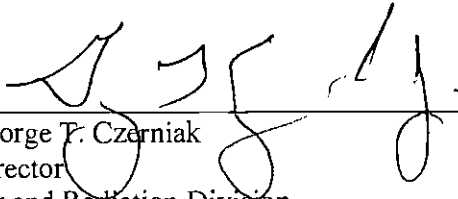
**Pitsch Sanitary Landfill, Inc., Respondent**

6-18-13  
Date

Steven Pitsch  
Steven Pitsch, President  
Pitsch Sanitary Landfill, Inc.

**United States Environmental Protection Agency, Complainant**

7/3/13  
Date

  
\_\_\_\_\_  
George T. Czarniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Pitsch Sanitary Landfill**  
**Docket No.**

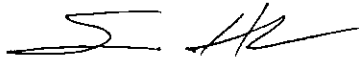
**CAA-05-2013-0031**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

7-10-13

Date



Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**RECEIVED**

JUL 12 2013

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

Consent Agreement and Final Order  
In the Matter of: Pitsch Sanitary Landfill, Inc.  
Docket No. CAA-05-2013-0031

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number ~~See Above~~ with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Mr. Steven Pitsch, President  
Pitsch Sanitary Landfill, Inc.  
675 Richmond NW  
Grand Rapids, Michigan 49504

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle  
Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

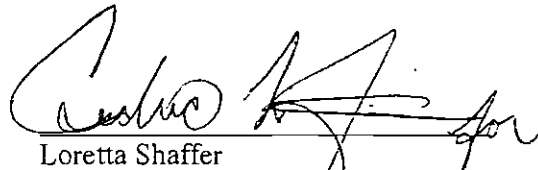
I also certify that I sent a copy of the Administrative Complaint, by first-class mail to:

Thomas E. Hess, Enforcement Unit Supervisor  
Michigan Department of Environmental Quality  
Air Quality Division, Enforcement Unit  
Constitution Hall, 3rd Floor North Tower  
525 West Allegan  
Lansing, Michigan 48933

Heidi Hollenbach, Supervisor  
Grand Rapids District Office  
Air Quality Division  
Michigan Department of Environmental Quality  
State Office Building, 6<sup>th</sup> Floor  
350 Ottawa Avenue NW, Unit 10  
Grand Rapids, Michigan 49503-2341

2013 JUN 12 09:11:50  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
CHICAGO, IL 60604

On the 12<sup>th</sup> day of July 2013.

  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER:

7009 1680 0000 7676 0676